

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FELICIA CHEEKS,

Plaintiff,

Case Number 10-12047

Honorable David M. Lawson

v.

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

**ORDER ADOPTING REPORT AND RECOMMENDATION, GRANTING
DEFENDANT'S MOTION FOR SUMMARY JUDGMENT, DENYING PLAINTIFF'S
MOTION FOR SUMMARY JUDGMENT, AFFIRMING THE COMMISSIONER'S
DECISION TO DENY BENEFITS AND DISMISSING THE PLAINTIFF'S COMPLAINT**

Presently before the Court is the report issued on January 18, 2011 by Magistrate Judge Charles E. Binder pursuant to 28 U.S.C. § 636(b). Magistrate Judge Binder found that substantial evidence supported the Commissioner's determination that the plaintiff was not disabled and ALJ conclusion that the plaintiff did not meet the requirements of a Listed Impairment under Listing 12.05 in 20 C.F.R. § 404.1520. Therefore, he recommended that this Court deny the plaintiff's motion for summary judgment, grant the defendant's motion for summary judgment, affirm the Commissioner's decision denying disability benefits, and dismiss the plaintiff's complaint.

Although the magistrate judge's report explicitly stated that the parties to this action may object to and seek review of the recommendation within ten days of service of the report, no objections have been filed. The parties' failure to file objections to the report and recommendation waives any further right to appeal. *Smith v. Detroit Federation of Teachers Local 231*, 829 F.2d 1370, 1373 (6th Cir. 1987). Likewise, the failure to object to the magistrate judge's report releases

the Court from its duty to independently review the motion. *Thomas v. Arn*, 474 U.S. 140, 149 (1985). However, the Court agrees with the findings and conclusions of the Magistrate Judge.

Accordingly, it is **ORDERED** that the Magistrate Judge's Report and Recommendation [dkt #19] is **ADOPTED**.

It is further **ORDERED** that the defendant's motion for summary judgment [dkt #16] is **GRANTED**.

It is further **ORDERED** that the plaintiff's motion for summary judgment [dkt #13] is **DENIED**.

It is further **ORDERED** that the findings of the Commissioner are **AFFIRMED**.

It is further **ORDERED** that the plaintiff's complaint is **DISMISSED**.

s/David M. Lawson
DAVID M. LAWSON
United States District Judge

Dated: February 9, 2011

PROOF OF SERVICE

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on February 9, 2011.

s/Deborah R. Tofil
DEBORAH R. TOFIL